

REMARKS/ARGUMENTS

The Office Action has been carefully considered. Before entry of this paper, the status of the application is as follows:

- Claims 19-39 are pending in the application.
- The drawings are objected to.
- The specification is objected to.
- Claims 23-33 are objected to.
- Claims 22, 32, and 33 stand rejected under 35 U.S.C. § 112 ¶ 2.
- Claims 19, 20, 23-25, 28, 30-33, 38, and 39 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Rice et al. (U.S. Pat. No. 6,435,489).
- Claims 21 and 22 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Rice et al. in view of Grafstrom (U.S. Pat. No. 4,651,978).
- Claims 23-25, 28-33, and 37 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Rice et al. (U.S. Pat. No. 6,435,489).
- Claim 26 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Rice et al. (U.S. Pat. No. 6,435,489) in view of JP-02186155.
- Claim 27 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Rice et al. (U.S. Pat. No. 6,435,489) in view of JP-02186155, and further in view of Bornzin (U.S. Pat. No. 3,504,508).
- Claims 34-36 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Rice et al. (U.S. Pat. No. 6,435,489) in view of Everitt (U.S. Pat. No. 2,903,208).

In view of the amendment above and the following remarks, Applicant respectfully requests reconsideration and withdrawal of the rejections of non-canceled claims 19-39 and entry of new claims 40-42.

1. The drawings are objected to with respect to claim 34 in its original form. Applicant has amended claim 34 to eliminate the “predetermined footprint” feature. The “predetermined fastener positions” feature is depicted in, for example, Fig. 1 where it is identified by reference designator 12. This is apparent in view of the discussion in paragraphs² [0029] and [0041] that describes how the holes 12 are provided to mount the plate using existing standard bolt (i.e.,

² Paragraphs denoted by number in square brackets refer to the paragraph in the printed specification (US 2007/0164492).

fastener) positions. Applicant respectfully submits that the drawings sufficiently show the features of claim 34 in light of the amendment made herein and the discussion in paragraphs [0029] and [0041].

2. The specification is objected to with respect to a lack of section headings. Applicant has amended the specification as described above to insert the required headings.

3. Claims 23-33 are objected to in view of an informality regarding the phrase “the buffer member.” Applicant has canceled claims 23, 25, and 26 and amended claim 19 such that use of this phrase is consistent in the claims.

4. Claims 22, 32, and 33 stand rejected under 35 U.S.C. § 112 ¶ 2. Applicant has amended claim 22 to insert the term “corresponding” before “lobe.” Applicant has amended claim 30 such that the phrase “the further buffer” in claim 32 is no longer indefinite, meaning that claim 33, which depends from claim 32, is no longer indefinite as well. Applicant respectfully submits that these changes are sufficient to overcome the Examiner’s rejections of claims 22, 32, and 33 under 35 U.S.C. § 112 ¶ 2.

5. Claims 19, 20, 23-25, 28, 30-33, 38, and 39 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Rice et al. (U.S. Pat. No. 6,435,489). Applicant respectfully traverses this rejection as applied to the claims as amended.

Applicant has canceled claims 23, 25, and 26 and amended independent claim 19 to include features previously claimed these claims. Consequently, the “buffer member” feature is now included in independent claim 19. As discussed below, Applicant respectfully submits that Rice et al. does not disclose all of the features now included in claim 19.

The Office Action states that Rice et al. discloses the claimed lobes (corresponding to Rice et al. reference designators 48, 50, 48’, and 50’) and buffer member (corresponding to Rice et al. reference designator 28). Office Action, pp. 5, 7. Applicant respectfully disagrees. Rice et al. depicts ears 28 that are part of a helmet 26. Rice et al., col. 3, ll. 19-21. The ears 28 are not disposed between the pads 48, 50, 48’, and 50’; instead they are aligned circumferentially with the pads. Rice et al. figures 1, 2, 4A, and 4B. Consequently, Rice et al. fails to disclose a buffer member that is between adjacent lobes as Applicant claims. In view of this deficiency in Rice et al. Applicant believes that claim 19, as amended herein, is patentably distinguishable over this

reference and is allowable. Non-canceled claims 20, 24, 28, 30, 32, and 33 depend directly or indirectly from, and include all of the limitations of, claim 19 and are therefore allowable as well.

The Office Action states that Rice et al. discloses the buffer means of claim 38 and equates Rice et al. elements 36 and 52 as the claimed first and second buffer members, respectively. Office Action, p. 6. Applicant respectfully disagrees. As disclosed in Rice et al., elements 36 (the upper cushion) and 52 (the rebound cushion) are always in contact with their rigid neighbors. Accordingly, the Rice et al. structure provides a permanent resistance to vibration displacement irrespective to the size of the displacement. In contrast, Applicant's claimed configuration includes buffers that increase resistance to displacement beyond certain thresholds. Because Rice et al. fails to disclose a gap between the cushions and their rigid neighbors, the Rice et al. structure cannot increase resistance to displacement beyond a threshold; i.e., provide one level of resistance while the gap is open and an increased resistance when the gap is closed due to displacement beyond a threshold. Consequently, Rice et al. fails to disclose the feature of increasing resistance to displacement beyond a displacement threshold that Applicant claims in independent claim 38. In view of this deficiency, claim 38 is patentably distinguishable over this reference and is allowable. Claim 39 depends from claim 38 and includes all of the limitations thereof and is therefore allowable as well.

6. Applicant respectfully submits that the remaining rejections under 35 U.S.C. § 103(a) are rendered moot in view of the amendments and remarks above. None of the other references of record, alone or in proper combination, teach or suggest the features of the claims are amended herein. Accordingly, the non-canceled claims rejected as obvious are, as amended herein, patentably distinguishable over the references set forth in the Office Action and are allowable.

7. Applicant has added new claims 40 and 41. No new matter has been added. Applicant has added claim 42 that is identical to claim 31 but for change in the dependency. Claim 31 is canceled.

Applicant respectfully request reconsideration and withdrawal of the rejections of, and objections to, non-canceled claims 19-39.

CONCLUSION

In view of the foregoing, Applicant submits that non-canceled claims 19-39 and new claims 40-42 are allowable. Applicant respectfully requests entry of this Amendment and Response, reconsideration, and early favorable action by the Examiner.

The Examiner is cordially invited to contact Applicant's undersigned representative at the number listed below to discuss any outstanding issues.

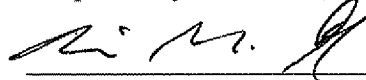
Date: February 3, 2009
Reg. No. 44,691

Tel. No.: (617) 517-5597
Fax No.: (888) 325-9725

Email: bgaff@eapdlaw.com

BOS2_718749.1

Respectfully submitted,



Brian M. Gaff
Attorney for Applicant
Edwards Angell Palmer & Dodge LLP
111 Huntington Avenue
P.O. Box 55874
Boston, Massachusetts 02205-5874
www.eapdlaw.com